

Application No: 10/753,321
Attorney's Docket No: ALC 3111

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. Claims 1, 2, 3, and 11 have been amended. Currently, claims 1-22 are pending in the present application of which claims 1 and 11 are independent. No new matter has been added.

Claims 1-22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wu (U.S. Patent Publication Number 2003/0174162) in view of Lindblad et al. (U.S. Patent Publication Number 2004/0103105). The above rejections are respectfully traversed for at least the reasons set forth below.

Claim Rejection Under 35 U.S.C. §112

Claims 1 and 11 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 3, and 11 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being incomplete for omitting essential steps, such omission amounting to a gap between the steps. Specifically, claims 1, 2, 3, and 11 were rejected for including potentially confusing language. These claims have been amended to remove or clarify the potentially confusing language. Additionally, claims 1 and 11 have been amended to include additional steps to clarify the claims and eliminate any gaps between the steps. The Examiner is therefore respectfully requested to withdraw the rejection of claims 1, 2, 3, and 11.

Application No: 10/753,321
Attorney's Docket No: ALC 3111

Claim Rejection Under 35 U.S.C. §101

The test for determining whether an invention is directed to statutory subject matter under 35 U.S.C. § 101 is whether the claimed invention as a whole accomplishes a practical application (MPEP 2106). As noted by the Court of Appeals for the Federal Circuit in *State Street*, 47 USPQ2d at 1601-02 (Fed. Cir. 1998), the claimed invention must produce a "useful, concrete and tangible result."

Claims 1-22 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. This rejection is respectfully traversed.

Claim 1, as amended, now recites receiving an alarm token indicating a condition of a computer system which caused the alarm and sending the encapsulated token to a management computer. Claim 11, as amended, now recites receiving a plurality of alarm tokens indicating conditions of a computer system wherein the XML tags indicate a category of the alarm token for the condition of the computer system. The Applicant submits that claims 1 and 11, and the claims that depend therefrom, are directed to a method that indicates the condition of a computer system and is therefore directed to statutory subject matter under 35 U.S.C. § 101.

The functions of the claimed methods have practical applications which produce a useful, concrete and tangible result. Specifically, the claimed method indicates the condition of a computer system which accomplishes a practical application. That is, the methods indicate the condition of a computer system by providing or inspecting XML tags to identify a condition of a computer system.

For at least the reasons set forth above, the Applicant submit that claims 1-22 are directed to statutory subject matter, and thus comply with the requirements of 35 U.S.C. § 101. The Applicant therefore respectfully requests withdrawal of the rejection.

Application No: 10/753,321
Attorney's Docket No: ALC 3111

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1-22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wu in view of Lindblad et al. This rejection is respectfully traversed because Wu and Lindblad et al., considered singly or in combination, fail to teach or suggest the claimed invention as set forth in amended claims 1, 11, and their dependents.

Wu discloses a system, method, apparatus, means, and computer program code that may help reduce and possibly minimizes the burden on a network, components of the network, etc. when one or more alarms are created involving the network or one or more of its components. A state driven architecture guiding communication between a first device or application, such as a network management system (NMS), and a second device or application, such as a serving

Application No: 10/753,321
Attorney's Docket No: ALC 3111

mobile location center (SMLC), may be used to handle communications or information regarding one or more alarms that may be generated by the second device or application as a result of problems involving the network or one or more of its components.

Lindblad et al. discloses structured hierarchical documents containing data, such as XML documents, which are input and stored in a structured database such as an XML database. The hierarchical structure of the document is represented as a collection of subtrees in which a subtree can be updated without affecting other subtrees. The relationship between neighboring subtrees is maintained by providing a link node in each subtree that stores a reference to the neighboring subtree. Subtrees can be organized into larger structures to support efficient searching of the structured database.

Claims 1 and 11, as amended, recite XML encapsulated alarm tokens "wherein the XML tags indicate a category of the alarm token for indicating the condition of the computer system." The Official Action asserts that Wu teaches the transmission of an alarm using XML and that Lindblad et al. provides an XML document with data encapsulated within and transmits this data to a parser for identification of XML elements. However, the Applicant asserts that neither Wu or Lindblad et al. teach or suggest XML encapsulated alarm tokens wherein the XML tags indicate a category of the alarm token for indicating the condition of a computer system. Wu, for instance, may send an alarm using XML. However, Wu fails to teach or suggest using the XML tag to indicate the category of the alarm itself. Additionally, Lindblad et al. merely shows general XML tags and fails to teach or suggest the use of XML tags indicating the category of an

Application No: 10/753,321
Attorney's Docket No: ALC 3111

alarm. Therefore, the Applicant submits that Wu and Lindblad et al., singly or in combination, fails to teach or suggest all of the elements of claims 1 and 11.

At least by virtue of Wu's and Lindblad et al.'s failure to teach or suggest the above identified elements of claims 1 and 11, a *prima facie* case of obviousness can not be established under 35 U.S.C. § 103. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1 and 11. Claims 2-10 depend from allowable claim 1 and claims 12-22 depend from allowable claim 11. These claims are also allowable over Wu in view of Lindblad et al. at least by virtue of their dependencies. Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 1-22.

Application No: 10/753,321
Attorney's Docket No: ALC 3111

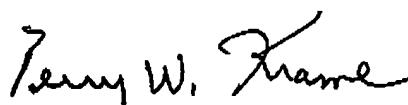
Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.



Terry W. Kramer
Registration No.: 41,541

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314
Phone: 703-519-9801
Fax: 703-519-9802

Date: May 24, 2006